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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA
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13 **NEVADA IRRIGATION DISTRICT,**
14 Plaintiff,
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16 v.
17 **ERIC OPPENHEIMER, in his official**
capacity as Executive Director of the
California State Water Resources Control
Board,
18 Defendant.
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2:21-cv-00851-DJC-CKD

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**STIPULATION AND ORDER TO
EXTEND TIME FOR DEFENDANT TO
RESPOND TO COMPLAINT**

Judge: Hon. Daniel J. Calabretta

Action Filed: 12/04/2020

STIPULATION

WHEREAS on December 4, 2020, Plaintiff Nevada Irrigation District (NID) filed its Complaint;

WHEREAS on September 22, 2021, Defendants Eileen Sobeck, et al., filed a Motion to Dismiss, or, in the alternative, Motion to Stay Plaintiff's Complaint on the grounds that this Court lacks jurisdiction to hear NID's claims because NID's claims are not ripe, because NID lacks Article III standing, and because the Eleventh Amendment immunizes Defendants from suit in federal court (ECF No. 37);

WHEREAS on December 6, 2023, the Court granted the motion in part and denied it in part (ECF No. 72), granting NID leave to amend within 30 days of the issuance of that Order;

WHEREAS NID filed a First Amended Complaint on January 5, 2024, which, among other things, substituted the State Water Resources Control Board's new Executive Director Eric Oppenheimer for the now-retired former Executive Director Eileen Sobeck;

WHEREAS, pursuant to rule 144 of the Local Rules, the Court approved the parties' first stipulation extending the deadline for Defendant's responsive pleading to February 2, 2024;

WHEREAS, pursuant to rule 144 of the Local Rules, the court approved the parties' second stipulation extending the deadline for Defendant's responsive pleading to June 2, 2024 (ECF No. 81);

WHEREAS Defendant is evaluating whether to file a motion to dismiss the First Amended Complaint;

WHEREAS on May 7, 2024, the State Water Resources Control Board (State Water Board) took public action on NID's administrative petition for reconsideration filed September 10, 2020, withdrawing the certification at issue in this lawsuit which Defendant asserts moots this lawsuit;

WHEREAS the statutory time period for any aggrieved party to file a motion for reconsideration of that administrative action, or for the State Water Board to reconsider that administrative action on its own motion, or for any aggrieved party to file a petition for writ of mandate in state court challenging that action runs from 30 days following said action (Wat. Code §§ 1124, 1126);

1 WHEREAS the effect of the State Water Board's May 7, 2024 action on this litigation is
2 uncertain until the aforementioned statutory reconsideration and appeal periods have run;

3 WHEREAS the parties now seek to extend the deadline for Defendant's responsive
4 pleading by 60 days to August 1, 2024, to allow the parties to meet and confer on the effect of
5 the State Water Board's May 7, 2024 action on this litigation following the expiration of the
6 statutory reconsideration and appeal periods;

7 THEREFORE, the parties by and through their respective counsel, stipulate as follows:

- 8 1. The parties will meet and confer, and by July 1, 2024, report back to the Court on the
9 status of the litigation.
- 10 2. If the parties are not in agreement on the effect of the State Water Board's May 7,
11 2024 action on this litigation, Defendant's responsive pleading will be due August 1,
12 2024.
- 13 3. This stipulation may be executed in counterpart originals and by facsimile or
14 electronic signature, each of which shall be deemed to be an original, and all of
15 which shall constitute one and the same document.

1 Dated: May 20, 2024

VAN NESS FELDMAN LLP

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4 /s/ Jenna R. Mandell-Rice
JENNA R. MANDELL-RICE
Attorneys for Plaintiff
Nevada Irrigation District

7 Dated: May 20, 2024

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11 /s/ Kristin K. McCarthy
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Deputy Attorneys General
Attorneys for Defendant Eric Oppenheimer
in his official capacity as Executive Director
of the State Water Resources Control Board

18 **ORDER**

19 Based on the parties' stipulation, by July 1, 2024, the parties will report back to the Court
20 on the status of the litigation. If the parties are not in agreement on the effect of the State Water
21 Board's May 7, 2024 action on this litigation, Defendant's responsive pleading is due August 1,
22 2024.

23 IT IS SO ORDERED.

25 Dated: May 21, 2024

26 /s/ Daniel J. Calabretta
THE HONORABLE DANIEL J. CALABRETTA
UNITED STATES DISTRICT JUDGE